

AMENDED IN ASSEMBLY APRIL 9, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1366**

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**Introduced by Assembly Member Portantino**

February 23, 2007

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*An act to amend Sections 65400 and 65581 of the Government Code, relating to housing.*

LEGISLATIVE COUNSEL’S DIGEST

AB 1366, as amended, Portantino. ~~Local government: housing needs.~~  
*General plan: housing element.*

**Existing**

*(1) Existing law requires local governments to adopt a comprehensive general plan that addresses a number of elements, including the housing element, and to make an annual report each year by April 1 to the legislative body of the local government and specified state agencies. The housing element portion of the annual report must address, among other things, the local government’s housing needs for various income levels the progress each local government is making toward fulfilling regional housing needs.*

*This bill would require the housing element portion of the annual report filed by each city, county, or city and county to include a specific description of the status of the local government’s efforts to meet its share of regional housing needs, and when those needs are not met, to require the annual report to include (1) an estimate of the time needed to complete a review of, and implement, the actions that will achieve and contribute to meeting its share of regional housing needs, and (2) an explanation of the basis for the estimate.*

*By increasing the duties of local public officials, the bill would impose a state-mandated local program.*

~~This bill would express the intent of the Legislature to enact legislation that would address the inability or failure of local governments to meet their housing needs, and how that inability or failure affects the ability of other surrounding jurisdictions to fulfill their own housing needs.~~

*(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.*

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~-yes.  
State-mandated local program: ~~no~~-yes.

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 65400 of the Government Code is
- 2     amended to read:
- 3     65400. (a) After the legislative body has adopted all or part
- 4     of a general plan, the planning agency shall do both of the
- 5     following:
- 6         (1) Investigate and make recommendations to the legislative
- 7     body regarding reasonable and practical means for implementing
- 8     the general plan or element of the general plan, so that it will serve
- 9     as an effective guide for orderly growth and development,
- 10    preservation and conservation of open-space land and natural
- 11    resources, and the efficient expenditure of public funds relating to
- 12    the subjects addressed in the general plan.
- 13    (2) Provide by April 1 of each year an annual report to the
- 14    legislative body, the Office of Planning and Research, and the
- 15    Department of Housing and Community Development that includes
- 16    all of the following:
- 17         (A) The status of the plan and progress in its implementation.
- 18         (B) The progress in meeting its share of regional housing needs
- 19     determined pursuant to Section 65584 and local efforts to remove
- 20     governmental constraints to the maintenance, improvement, and

development of housing pursuant to paragraph (3) of subdivision (c) of Section 65583.

(i) The housing element portion of the annual report, as required by this paragraph, shall be prepared through the use of forms and definitions adopted by the Department of Housing and Community Development pursuant to the rulemaking provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2).

(ii) *The planning agency shall include in the housing element portion of the annual report a specific description of the status of the legislative body's efforts to meet, or contribute to the meeting of, regional housing needs, as determined pursuant to Section 65584. If the regional housing needs are not met, the planning agency shall set forth (I) the period of time it estimates will be needed to complete a review of, and implement, the actions that will achieve and contribute to meeting its share of regional housing needs, and (II) an explanation of the basis for this estimate.*

(C) The degree to which its approved general plan complies with the guidelines developed and adopted pursuant to Section 65040.2 and the date of the last revision to the general plan.

~~(b) For the report to be filed during the 2006 calendar year, the planning agency may provide the report required pursuant to paragraph (2) of subdivision (a) by October 1, 2006.~~

~~(e)~~

(b) If a court finds, upon a motion to that effect, that a city, county, or city and county failed to submit, within 60 days of the deadline established in this section, the housing element portion of the report required pursuant to subparagraph (B) of paragraph (2) of subdivision (a) that substantially complies with the requirements of this section, the court shall issue an order or judgment compelling compliance with this section within 60 days. If the city, county, or city and county fails to comply with the court's order within 60 days, the plaintiff or petitioner may move for sanctions, and the court may, upon that motion, grant appropriate sanctions. The court shall retain jurisdiction to ensure that its order or judgment is carried out. If the court determines that its order or judgment is not carried out within 60 days, the court may issue further orders as provided by law to ensure that the purposes and policies of this section are fulfilled. This subdivision applies to proceedings initiated on or after the first

1 day of October following the adoption of forms and definitions by  
2 the Department of Housing and Community Development pursuant  
3 to paragraph (2) of subdivision (a), but no sooner than six months  
4 following that adoption.

5 *SEC. 2. Section 65581 of the Government Code is amended to*  
6 *read:*

7 65581. It is the intent of the Legislature in enacting this article:

8 (a) To assure that counties and cities recognize their  
9 responsibilities in contributing to the attainment of the state housing  
10 goal.

11 (b) To assure that counties and cities will prepare and implement  
12 housing elements which, along with federal and state programs,  
13 will move toward attainment of the state housing goal.

14 (c) To recognize that each locality is best capable of determining  
15 what efforts are required by it to contribute to the attainment of  
16 the state housing goal, provided such a determination is compatible  
17 with the state housing goal and regional housing needs.

18 (d) To ensure that each local government cooperates with other  
19 local governments in order to address regional housing needs.

20 (e) *To ensure that the housing element portion of the annual*  
21 *report filed by each city, county, or city and county, as required*  
22 *by Section 65400, includes a specific description of the status of*  
23 *the local government's efforts to meet its share of regional housing*  
24 *needs, and when those needs are not met, to require the report to*  
25 *include (1) an estimate of the time needed to complete a review*  
26 *of, and implement, the actions that will achieve and contribute to*  
27 *meeting its share of regional housing needs, and (2) an explanation*  
28 *of the basis for this estimate.*

29 *SEC. 3. If the Commission on State Mandates determines that*  
30 *this act contains costs mandated by the state, reimbursement to*  
31 *local agencies and school districts for those costs shall be made*  
32 *pursuant to Part 7 (commencing with Section 17500) of Division*  
33 *4 of Title 2 of the Government Code.*

34 ~~SECTION 1. It is the intent of the Legislature to enact~~  
35 ~~legislation that would address the inability or failure of local~~  
36 ~~governments to meet their housing needs and how that inability~~  
37 ~~or failure effects the ability of other surrounding jurisdictions to~~  
38 ~~fulfill their own housing needs.~~

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